

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BIG RIVERS ELECTRIC CORPORATION'S	)	
NOTICE OF CHANGES IN RATES AND	)	
TARIFFS FOR WHOLESALE ELECTRIC SERVICE	)	CASE NO. 9613
AND OF A FINANCIAL WORKOUT PLAN	)	

O R D E R

On August 11, 1986, National-Southwire Aluminum Company ("NSA") filed a motion requesting the Commission to dismiss the notice of rate adjustment filed by Big Rivers Electric Corporation ("Big Rivers") on the grounds that it fails to include: (1) the financial workout plan tentatively agreed to by creditors and discussed in the filing; (2) a request for approval of future financings necessitated by the financial workout plan; (3) the 1986 load forecast of Big Rivers; and, (4) the details of the financial workout plan in its statement, filed pursuant to 807 KAR 5:001 Section 10(1)(d), of the reason why the rate adjustment is required.

On August 13, 1986, Big Rivers filed a response to NSA's motion and copies of its financial workout plan. Big Rivers' response states that (1) NSA's motion is now moot since the workout plan has been filed; (2) an application for approval of financing will be filed well in advance of the issuance of any securities necessitated by the financial workout plan; (3) Big Rivers has not yet completed its 1986 load forecast although its

member cooperatives have completed theirs; and (4) the statement in its application of the reason why the rate adjustment is required is in compliance with 807 KAR 5:001 Section 10(1)(d) since the financial workout plan has been filed and but for such plan the proposed rates would have been significantly higher.

On August 15, 1986, NSA filed a supplement to its motion to dismiss claiming that Big Rivers' financial workout plan (1) contains no explicit approval by its board of directors or member cooperatives; (2) is only an indication by the creditors that they will attempt to agree on financial targets if the rate adjustment is granted in full; (3) is a transfer of control of Big Rivers to its creditors in violation of KRS 278.020; and (4) imposes no obligation on the creditors to provide additional credit or forbearance. NSA further argues that Big Rivers' rate adjustment is premature and incomplete until its creditors have agreed on a financial plan with a quantifiable revenue requirement and that by dismissing the rate adjustment attention can be redirected to NSA's pending complaint against Big Rivers.

On August 22, 1986, Big Rivers filed a response to NSA's supplemental motion to dismiss. Big Rivers denies each of NSA's arguments and states that "[T]he issues raised in NSA's Supplement are more appropriate for resolution in a rate case hearing, rather than through a series of motions and responses."

Based on the motions, responses and evidence of record, the Commission is of the opinion and hereby finds that NSA's motions to dismiss raise substantial issues of fact not readily determinable without an evidentiary hearing. The motions will

therefore be held in abeyance until the evidentiary hearing scheduled on December 2, 1986. At the close of evidence the parties will be afforded an opportunity to present oral argument in support of their respective positions.

IT IS THEREFORE ORDERED that NSA's motions to dismiss be and they hereby are held in abeyance pending evidentiary hearing and oral argument.

Done at Frankfort, Kentucky, this 16th day of September, 1986.

PUBLIC SERVICE COMMISSION

*Richard D. Hemm Jr.*  
Chairman

*R. H. H. H.*  
Vice Chairman

*Squire H. Williams*  
Commissioner

ATTEST:

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Executive Director